

MAY-17-2007 THU 07:49 PM BRIAN S STEINBERGER PA

FAX NO. 321 633 9322

P. 08

RECEIVED
CENTRAL FAX CENTER

Appl No.: 10/811,595

MAY 17 2007

Atty. DKL
PC-1696

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant gratefully appreciates the telephone conversations with former Primary Examiner Tamara Graysay and Supervisory Examiner David Dunn on or about May 8-10, 2007 concerning the erroneous communication filed by the Patent & Trademark Office on May 7, 2007.

As noted during these recent phone calls, the current amendments to the claims were the SAME AMENDMENTS previously filed by the applicant filed on December 4, 2006, and was NOT entered by Examiner Graysay for reasons that they "require further consideration and/or search..." as noted on page 2 of the Advisory Office action mailed January 3, 2007. Examiner Graysay properly noted that the amended claims "...adds limitations including, but not limited to a second multi-stage filter system...." Examiner Graysay CLEARLY DOES NOT OBJECT TO THESE AMENDED CLAIMS AS BEING DRAWN TO NONELECTED CLAIMS, and IN FACT DISCUSSES THESE AMENDMENTS TO THE CLAIMS AS FURTHER "LIMITATIONS."

As applicant pointed out in their previous responses, using a first and second multistage filtering system is FURTHER LIMITATIONS TO THE CLAIMS AND IS CLEARLY SUPPORTED BY THE SUBJECT SPECIFICATION, as described below.

Thus, RECONSIDERATION AND ENTRY OF THIS AMENDMENT IS RESPECTFULLY REQUESTED.

As applicant pointed out in the telephone calls to former Primary Examiner Tamara Graysay and Supervisory Examiner David Dunn on or about May 8-10, 2007, Applicant WOULD NOT HAVE FILED this amendment in an RCE APPLICATION IF THERE WERE ANY INDICATIONS THAT THE CLAIMS WOULD NOT BE ENTERED AS BEING DRAWN TO NONELECTED SUBJECT MATTER. Clearly, former Examiner Graysay indicated there was NO SUCH ISSUE with these claims as being NONELECTED in her previous office action response filed January 3, 2007.

It would be inequitable and unfair and unreasonable for the applicant to be forced to respond to a substantially different opinion of a new examiner, when the applicant in GOOD FAITH RELIED ON A former primary examiner(Examiner Graysay) examination and determination that such claims were both supported by the subject specification and were FURTHER LIMITATIONS over the previous claims.

Thus, entry of this amendment is the correct action to take under RCE rules of the MPEP 706.07h and 37CFR 1.114, where in the subject case this amendment is NOT DRAWN TO A SEPARATE INVENTION AND INSTEAD FURTHER LIMITS THE SUBJECT INVENTION CLAIMS.

Applicant has rewritten claims 1, 2, 23 and canceled claims 20, 22 and 24-30. This amendment FURTHER LIMITS THE SUBJECT CLAIMS.

Applicant again gratefully appreciates examiners Graysay telephone call on November 24, 2006. Applicant notes that the examiner has stated that the specification does not contain support "for an embodiment where two blowers are used with one multi-stage filter(claim 22) or where one blower is used in a two-directional manner with one multi-stage filter(claim 24)." In the interview with the examiner, applicant maintained

Appl No.: 10/811,595

Atty. Dkt.
PC-1696

the position that the subject specification clearly allowed for one multi-stage filter for positive pressure blower to both inflate and decontaminate outside air entering into the tent enclosure, along with a second multi-stage filter with negative pressure blower to exhaust air from the tent enclosure while decontaminating the air inside of the enclosure when being released outside. Applicant maintained that the references do not show BOTH MULTISTAGE FILTERS AND THEIR RESPECTIVE BLOWERS and all the stages of such multi-stage filters. Applicant did NOT hear Any disagreement from the examiner as to these points. In fact, Examiner GRAYSAY AGREED THAT AMENDING THE CLAIMS TO HAVING TWO MULTISTAGE FILTER SYSTEMS(one for input and one for output) WAS BOTH ENABLING BY THE SUBJECT SPECIFICATION AND WERE FURTHER LIMITATIONS TO THE CLAIMS.

Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

As to the objection to the drawings, this requirement is now moot since the requirement called for a drawing having BOTH "a pressurization blower and exhaust blower in combination with ONE multi-stage filter..." As discussed with the Examiner on November 24, the originally filed application covers TWO MULTI-STAGE FILTER SYSTEMS, with one multi-stage filter for use with a pressurization blower, and another exhaust blower for forming negative pressure that is associated with another multi-stage filter. Thus, removal of this drawing objection is respectfully requested.

The objection to claims 24 and 26 is now moot since these claims have been canceled.

Claims 22-25 were rejected under sec. 112, first paragraph. The rejection of claims 24-25 is now moot since these claims have been canceled.

The rejection to claim 22 is now moot since this claim has been canceled and is now part of independent claim 1. Also, amended claim 1 now clearly recites two multi-stage filter systems, one for positive pressure and one for negative pressure, which the examiner agrees is covered by the originally filed application.

Also, amended claim 23 has now been amended to include the features of former dependent claims 1 and 21 on which this claim previously depended. This claim now clearly recites two multi-stage filter systems, one for positive pressure and one for negative pressure, which the examiner agrees is covered by the originally filed application.

The rejections of claim 25 under sec. 112, second paragraph and under sec. 101 is now moot since this claims has been canceled.

The rejection of claims 1, 2, 5 and 11 under sec. 103 over Hilbert and Haughey, is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22. Thus, removal of this rejection is respectfully requested.

The rejection of dependent claim 3 under sec. 103 over Hilbert and Haughey and Tate is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22.

The rejection of dependent claim 8 under sec. 103 over Hilbert and Haughey and Baldwin is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22.

Appl No.: 10/811,595

Atty. Dkt.
PC-1696

The rejection of dependent claim 9 under sec. 103 over Hilbert and Haughey and Knuth is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22.

The rejection of dependent claim 10 under sec. 103 over Hilbert and Haughey and Baldwin is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22.

The rejection of dependent claims 20 and 21 under sec. 103 over Hilbert and Haughey and Searle is now moot since independent claim 1 has been amended to include the novel subject matter of former dependent claims 20 and 22.

Claims 22 and 23 were rejected under sec. 103 over Hilbert and Haughey and Searle and Teagle. As previously noted independent claim 1 has now been amended to include the novel features of former dependent claims 20 and 22. And former dependent claim 23 has now been put into independent form to include the features of former independent claim 1 and former dependent claim 21.

Applicant respectfully disagrees with the examiner's statements that "Teagle suggests using a blower to exhaust filtered air from a sealed enclosure (and) It would have been obvious to exhaust filtered air...in order to provide an enclosure that can be exhausted of undesirable contaminates.

First, there is NO TEACHING OR SUGGESTION OR DESCRIPTION in the Hilbert, Haughey and Searle references to SUDDENLY ADD another "multi-stage filtering system" as claimed with a negative pressure blower.

Second, there is NO TEACHING OR SUGGESTION OR DESCRIPTION in Teagle to SUDDENLY ADD another "multi-stage filtering system" as claimed with a positive pressure blower.

Third, Teagle has nothing to do with "filtering out contaminated air" from an "inflatable and collapsible tent enclosure" as claimed in the subject invention. In fact, Teagle specifically recites using their system SOLELY in "a confined space, such as an interior room of a high-rise building or the like, or a cargo hold of a ship or a cabin or cargo hold of an aircraft....a hotel or apartment complex....", column 3, lines 1-30. Clearly, this system is used with permanent structures which have nothing to do with "inflatable and collapsible tent enclosure(s)" as claimed in the subject invention.

Fourth Teagle clearly DOES NOT describe, teach or suggest using the three(3) output filtering stages of amended independent claim 1 and the four(4) output filtering stages of amended independent claim 23. Specifically for example, Teagle does not describe, teach or suggest the three output filtering stages of "a fourth filter for absorbing substantially all odors exiting the enclosure; a fifth filter for capturing substantially all radioactive sized particles from exiting the enclosure; and a sixth filter for killing microbes from exiting the enclosure, the sixth filter includes a UV(ultraviolet) light source for killing the microbes, wherein the second multi-stage air filter system is for filtering out contaminated air" claimed in independent claim 1.

Also for example, Teagle does not describe, teach or suggest the four output filtering stages of "a fifth filter for absorbing substantially all odors exiting the enclosure; a sixth filter for capturing substantially all radioactive sized particles from exiting the enclosure; and a seventh filter for killing microbes from exiting the enclosure; an eighth filter that is electrostatically charged for filtering out additional particles from exiting the

Appl No.: 10/811,595

Atty. Dkt.
PC-1696

| enclosure" of amended independent claim 23. Thus, removal of this rejection is appropriate and is respectfully requested.

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438(Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-3, 5, 8-11, 21 and 23 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

The rejection of claims 24 and 25 over Brown, Knuth and Scarle is now moot since these claims have been canceled.

The rejection of claims 26, 28 and 30 over Brown, Knuth, Scarle and Colby is now moot since these claims have been canceled.

The rejection of claim 27 over Brown, Knuth, Scarle, Colby and LeBleuc is now moot since claim have been canceled.

The rejection of 29 over Brown, Knuth, Scarle, Colby and Wang is now moot since this claim have been canceled.

The remaining references cited but not applied to Burger and Adiletta do not overcome the deficiencies of the other references cited above.

In view of the foregoing considerations, it is respectfully urged that subject claims 1-3, 5, 8-11, 21 and 23 be allowed.

Alternatively, applicant requests for a phone interview with EXAMINER Winnie Yip along with Supervisory Examiner David Dunn and the former Examiner Graysay if the above amendment does not place the application in condition for allowance. Such action is respectfully requested.

Respectfully Submitted;

Brian S. Steinberger
Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
Telephone: (321) 633-5080

Date 5/17/07